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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,291	11/26/2003	James David Arthur	cnvtr01	1173

7590 08/07/2006
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EXAMINER

BERHANE, ADOLF D

ART UNIT PAPER NUMBER

2838

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/724,291	Applicant(s) ARTHUR, JAMES DAVID	
	Examiner Adolf Berhane	Art Unit 2838	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/08/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 8-29 are rejected under 35 U.S.C. 102(a) as being anticipated by Wener et al. (6,366,028).

Wener et al. disclose a battery-powered light in Figs. 1-3. The stabilized power converter (24), timing capacitors (C2) and (C3), resistors (R3) and (R2), supply (CN1) and (CN2), switching transistors (Q1) and (Q2) load light emitting diodes (16) and time needed to fully discharge inductor (L1).

Response to Arguments

3. Applicant's arguments with respect to claims 8-29 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the schematic-level similarities between the devices are superficial that, electrically, a 100nF d.c. blocking capacitor (Fig. I C, C_{inf}) used in Applicant's invention, for example, is not the same element, and does not perform the same function as the 1 nF timing capacitor (Fig. I B, C I B), disclosed in the cited prior art, and that this feature by itself defines a novel structure. Applicant does not claim the value of the capacitors. Applicant further argues that the off-time of Wener's device is

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controlled by an RC-timer provided for that purpose. Said timer's components include (C3), (R3), and (Q2), while claimed invention, by contrast, detects and relies on the discharge of the inductor to hold its power-switching transistor off during the pendency of said discharge, thus establishing an off-time. Applicant attention is directed to Wener's reference col. 4, line 42 to col. 5, line 3. which shows that the inductor along with the RC establishes an off-time. In re Self, 671 F.2d 1344, 213 USPQ 1, 5 (CCPA 1982). In attempting to overcome this rejection, appellant here renews the arguments which were unsuccessful before the board; that the structure of Binckley is different; that Binckley does not operate in the same way to accomplish the same result as the claimed invention; that Binckley is inoperative to accomplish its intended result, and therefore cannot anticipate; and that Binckley fails as an anticipation because it is nonenabling. Many of appellant's arguments fail from the outset because, as the solicitor has pointed out, they are not based on limitations appearing in the claims. Thus, it is immaterial that Binckley is a variable head device, while the claimed invention is contemplated to be a constant head device, because appellant's claims are not limited to the latter. It is equally immaterial, with respect to claim 22, that Binckley uses a plug to obtain his desired result, as nothing in that claim precludes the use of a plug with the claimed subject matter. It matters not that Binckley does not operate in the same way to accomplish the same result where appellant has not limited his claims according to function or result.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adolf Berhane whose telephone number is 571-272-2077. The examiner can normally be reached on Monday- Friday 8 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Karl Easthom can be reached on 571-272-1989. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Adolf Bernane", is written over the printed name.

Adolf Bernane
Primary Examiner
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